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5. Municipal Corporations (§ 791*)—Defects in Streets—Notice to City of Defect.—Where it was necessary to run water all night through a fire hose into a catch-basin, and the hose was left in the gutter close to the curb at 5:07 p. m., the interval between that time and 7:45 p. m. was not sufficient to charge the city with constructive notice that the hose was not in the gutter, but two or three feet out in the street, where a traveler fell over it.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. §§ 1647-1651; Dec. Dig. § 791.* 12 Va.-W. Va. Enc. Dig. 903, 905.]

6. Municipal Corporations (§ 819*)—Defects in Streets—Contributory Negligence—Evidence.—In an action against a city for injuries received by falling over a fire hose left in the street to flush a sewer, evidence held to show that plaintiff's own negligence was the proximate cause of her injury.

[Ed. Note.—For other cases, see *Municipal Corporations*, Dec. Dig. § 819.* 12 Va.-W. Va. Enc. Dig. 913.]

Error to Circuit Court of City of Portsmouth.

Action by Margaret Lee against the City of Portsmouth. Judgment for plaintiff, and defendant brings error. Reversed, and remanded for new trial.

Jno. W. Happer and Frank L. Crocker, for plaintiff in error.

S. Burrell Bragg and Jeffries, Wolcott, Wolcott & Lankford, for defendant in error.

CONSOLVO & CHESHIRE v. FERRIES CO.

June 8, 1911.

[71 So. Rep. 634.]

1. Ferries (§ 16*)—Leases—Construction.—The city of Portsmouth and the county of Norfolk were jointly entitled to the use of a certain ferry landing, though the county had legal title. This property had been leased for a long time, and previous lessees had extended the landing space by filling in a certain strip of land, and those lessees had used that land for over 20 years. Both the county and city leased the ferry and other joint property to the plaintiff's assignee, which lease included all of the ferry property belonging to both. On the same day the lease was made to plaintiff's assignee, the county leased the property filled in to defendant's assignee, which lease, after describing the property as part of the Norfolk county dock property, provided that, if the use of that property became necessary for the ferries, it should be released and given up. Held, that this land was part of the ferry property, and, as the de-

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

endants' lease recognized the paramount rights of the plaintiff, plaintiff was entitled to the use of this property when it became necessary for ferry purposes.

[Ed. Note.—For other cases, see *Ferries*, Cent. Dig. §§ 38-40; Dec. Dig. § 16.* 6 Va.-W. Va. Enc. Dig. 30, 31; 9 Va.-W. Va. Enc. Dig. 159.]

2. Forcible Entry and Detainer (§ 8*)—Title to Support.—Under Code 1904, § 2716, providing that an action of unlawful detainer may be brought by one ousted from the possession of land to which he is entitled, no matter what his title may be, the lessees of a ferry landing demised to them by the county of Norfolk and the city of Portsmouth may maintain such an action, though their right be only a license or a privilege.

[Ed. Note.—For other cases, see *Forcible Entry and Detainer*, Cent. Dig. §§ 35, 36; Dec. Dig. § 8.* 6 Va.-W. Va. Enc. Dig. 163.]

3. Forcible Entry and Detainer (§ 18*)—Parties—Necessary Parties.—The city of Portsmouth and the county of Norfolk were jointly entitled to the use of a certain ferry landing, though the county had the legal title. Both united in a demise of this property, and their lessees brought an action of unlawful detainer against persons holding part of the landing adversely to them. Held, that it was unnecessary that the county of Norfolk be a party, for its title could not be affected, by judgment in favor of the lessee, to land which rightfully belonged to the lessee under the terms of the defense.

[Ed. Note.—For other cases, see *Forcible Entry and Detainer*, Cent. Dig. §§ 84-87; Dec. Dig. § 18.* 10 Va.-W. Va. Enc. Dig. 752.]

Error to Corporation Court of City of Norfolk.

Unlawful detainer by the Ferries Company against Consolvo & Cheshire. There was a judgment for plaintiff, and defendants bring error. Affirmed.

Edward R. Baird, Jr., for plaintiffs in error.

R. Randolph Hicks, for defendant in error

ARMINIUS CHEMICAL CO., Inc. v. WHITE'S ADM'X.

June 8, 1911.

[71 S. E. 637.]

1. Corporations (§ 507*)—Summons—Identity of Defendant.—"Arminius Chemical Company, Incorporated," was brought into court on summons served upon its authorized attorney, though directed to "Arminius Chemical Company;" there being but one company, the first mentioned, which succeeded the other.

[Ed. Note.—For other cases, see *Corporations*, Cent. Dig. §§ 1971-

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